

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Immaculee Muhizi,

Plaintiff

v.

Civil Case No. 1:21-cv-_____

B-X Concord, LLC

d/b/a

The Birches at Concord,

Defendant.

NOTICE OF REMOVAL
AND DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§1441 B-X CONCORD, LLC d/b/a THE BIRCHES AT CONCORD, by and through its attorneys, JACKSON LEWIS P.C., hereby removes this action from the Superior Court of the State of New Hampshire, Merrimack County, to the United States District Court for the District of New Hampshire.

In support of this Notice of Removal, Defendant states as follows:

1. On or about, March 28, 2018, Immaculee Muhizi dual-filed a Charge of Discrimination with the New Hampshire Commission for Human Rights (“NHCHR”) (Charge No. EDCR NO(R) 0158-18) and the Equal Employment Opportunity Commission (“EEOC”) (Charge No. 16D-2018-00185) against B-X Concord, LLC d/b/a The Birches at Concord. A copy of Plaintiff’s Charge of Discrimination is appended hereto as Exhibit 1.

2. By letter sent by email to Defendant on October 7, 2021, the NHCHR issued a finding of probable cause and scheduled a public hearing to be held on January 19, 2022, under the authority of NH RSA 354-A:21, on the following issues:

- a) Whether Complainant was subjected to race discrimination in violation of NH RSA 354-A, et seq.?

- b) Whether Complainant was subjected to color discrimination in violation of NH RSA 354-A?
- c) Whether Complainant was subjected to national origin discrimination in violation of NH RSA 354-A, et seq.?
- d) Whether Complainant was subjected to retaliation by Respondent in violation of NH RSA 354-A, et seq.?

3. Pursuant to NH RSA 354-A:21-a, on November 5, 2021, Defendant transferred the Charge to the Merrimack County Superior Court for a trial by jury. A copy of Defendant's Notice of Transfer to Superior Court and Request for Jury Trial Pursuant to NH RSA 354-A:21-A and Summons are attached hereto as Exhibit 2. A certified copy of the state court record will be filed upon receipt of same from the Merrimack County Superior Court.

4. Pursuant to 28 U.S.C. § 1446(a), this notice of removal is timely filed within thirty (30) days of November 5, 2021, the date on which Defendant transferred the matter to the Merrimack County Superior Court.

5. This Court has original jurisdiction over this action by virtue of federal question jurisdiction pursuant to 28 U.S.C. §1331. Specifically, Plaintiff alleges discrimination on the basis of race and national origin in violation of Title VII of the Civil Rights Act of 1964, and retaliation due to her requests for reasonable accommodation for her alleged disability in violation of the Americans with Disabilities Act of 1990 ("ADA") and the Americans with Disabilities Act Amendments Act ("ADAAA"), 42 U.S.C. § 12101, et seq., as well as under state law, NH RSA 354-A, et seq.

6. Defendant submits this Notice without waiving any defenses to the claims asserted by Plaintiff or conceding that Plaintiff has pled claims upon which relief can be granted.

7. As this action could have been commenced in this Court, removal is proper. 28 U.S.C. §1441(a). Furthermore, this Court may exercise supplemental jurisdiction over the Plaintiff's state law claims. See 28 U.S.C. §1367(a).

Respectfully Submitted,
B-X CONCORD, LLC d/b/a
THE BIRCHES AT CONCORD,
By its attorneys,
JACKSON LEWIS P.C.,

Date: November 15, 2021

By: /s/ Martha Van Oot
Martha Van Oot, NHBA #963
100 International Drive, Suite 363
Portsmouth, NH 03801
603.559.2700
Martha.vanoot@jacksonlewis.com

Certificate of Service

I hereby certify that copies of the foregoing were this day served, via email and the court's electronic filing system, on *pro se* Plaintiff, Immaculee Muhizi, immaculeemu2004@yahoo.com.

Date: November 15, 2021

/s/ Martha Van Oot
Martha Van Oot